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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/734,650

12/11/2003

William D. Hillis

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EXAMINER

JEAN, FRANTZ B

ART UNIT

PAPER NUMBER

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/734,650	Applicant(s) HILLIS ET AL.	
	Examiner Frantz B. Jean	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-80 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-80 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/11/03, 3/29 and 4/23/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to application filed on 12/11/03. Claims 1- 80 are presented for examination.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 12/11/03, 3/29/07, and 4/23/07 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

The cross-reference to related application on page 1 of the specification needs to be updated to include the filing date of the related application.

Applicants are requested to check and review the specification for typographical errors, any sort of embedded hyperlink or other errors to prevent delay during issue process.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422

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F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-80 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-50 of copending Application No.10/734,647. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the instant application are arguably broader than claims 1-50 of application "647", which encompass the same metes bounds, and limitations. Therefore, it would be obvious to eliminate the limitations of the narrower claims, since it has been held that omission of an element and its function and a combination where the remaining elements perform the same function as before involves only routine skill in the art. See *in re Karlson*, 136 USPQ 184.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

Claims 1-72 recite the limitation "first network and second network". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-80 are rejected under 35 U.S.C. 102(b) as being anticipated by Jaeger US patent number 6,345,028 B1.

As per claim 1, Jaeger teaches a method comprising: receiving a request for data having at least one specific content (see fig 1; col. 5 lines 49-52; reading track from a disk requires a request or commands); obtaining one or more first-network temporal addresses corresponding to the at least one specific content, in response to the request for data having the at least one specific content (fig 1; col. 5 lines 52-67; temporal addresses/time stamps); obtaining one or more second-network temporal addresses corresponding to the at least one specific content, in response to the request for data having the at least one specific content (col. 4 lines 3-13; col. 8 lines 35-45; col. 9 lines 35-54); and constructing the at least one content from the first network and the second network (col. 4 lines 3-13; col. 8 lines 35-45; col. 9 lines 35-54; Jaeger appears to teach first and second network see col. 8 lines 35-45). Furthermore, different disk can be located or part of different network col. 5 lines 45-67).

As per claim 2, Jaeger teaches a method of claim 1, wherein said receiving a request for data having at least one specific content further comprises: receiving a request for at

least a portion of recorded video (see fig 5; col. 8 lines 36-46).

As per claim 3, Jaeger teaches a method of claim 1, wherein said receiving a request for data having at least one specific content further comprises: receiving a request for at least a portion of recorded audio (fig 5; col. 8 lines 36-46).

As per claim 4, Jaeger teaches a method of claim 1, wherein said receiving a request for data having at least one specific content further comprises: receiving a request for at least a portion of recorded audio and video (fig 5; col. 8 lines 36-46).

As per claim 5, Jaeger teaches a method of claim 1, wherein the receiving a request for data having at least one specific content further comprises: receiving a request for at least a portion of at least one of computer processable and network processable data (fig 5 col. 8 lines 36-46; audio, video and data tracks are computer and network processable).

As per claim 6, Jaeger teaches a method of claim 1, wherein said obtaining one or more first-network temporal addresses corresponding to the at least one specific content, in response to the request for data having the at least one specific content further comprises: associating the specific content with one or more times of one or more first network transmitted data portions (col. 5 lines 52-63; col. 8 lines 35-61).

As per claim 7, Jaeger teaches a method of claim 6, wherein said associating the specific content with one or more times of one or more first network transmitted data portions further comprises: consulting a first-network schedule having the specific content in association with the one or more times of the one or more transmitted data portions (col. 5 lines 52-63; col. 8 lines 35-61).

As per claim 8, Jaeger teaches a method of claim 7, wherein said consulting a first-network schedule having the specific content in association with the one or more times of the one or more transmitted data portions further comprises: consulting a first-network schedule published by at least one of a first-network source controller and a first-network source switch controller (fig 1; col. 5 lines 45-67).

As per claims 9-29 Jaeger teaches a method of claim 8, wherein said consulting a first-network schedule published by at least one of a first-network source controller and a first-network source switch controller further comprises: accepting input of the first-network schedule published by at least one of the first-network source controller and the first-network source switch controller; furthermore Jaeger discloses all the timing and scheduling aspects featured in the claims (see fig 1; col. 5 lines 45-67; col. 7 lines 39-52; see starting point time stamp, duration and others related term that can easily interpreted as scheduling and timing).

As per claims 30-36, they discuss first and second network and temporal address,

which have already been dealt with in claim 1 above. Therefore, they are rejected under the same rationale.

Claims 37-72 is a system claim of the method claims 1-36 discussed above. They are rejected under the same rationale.

As per claim 73, Jaeger teaches a system comprising: a temporal address unit configured to receive a request for a substance of data (fig 1, 5 and 6; col. 7 lines 39-52 and col. 9 line 35 to col. 10 line 23).; and a data switch controller configured to generate one or more first-network temporal addresses and second-network temporal addresses in response to the request for the substance (col. 4 lines 3-13; col. 8 lines 35-45; col. 9 lines 35-54; Jaeger appears to teach first and second network see col. 8 lines 35-45). Furthermore, different disk can be located or part of different network col. 5 lines 45-67).

As per claim 74-79, they discuss spatial-to-temporal translated data, content format and spatial format (see Jaeger col. 6 lines 49-67; fig 2; reordered audio, video, data tracks/signals being streamed from the RAM buffer are similar to "Spatial-to-temporal translated data").

As per claim 80, Jaeger teaches a system of claim 76, wherein said data switch controller configured to generate one or more first-network temporal addresses and second-network temporal addresses in response to the request for the substance further comprises: said data switch controller configured to access a first-network

content transmission schedule and a second-network content transmission schedule (see fig 1; col. 5 lines 45-67; col. 7 lines 39-52; see starting point time stamp, duration and others related term that can easily interpreted as scheduling and timing).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz B. Jean whose telephone number is 571-272-3937. The examiner can normally be reached on 8:30-6:00 M-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Frantz B. Jean/
Primary Examiner, Art Unit 2154